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# Trail of Tears National Historic Trail Certification Guide





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# Certification Guide

## Trail of Tears National Historic Trail

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Prepared by:  
National Park Service  
Long Distance Trails Group Office  
P.O. Box 728  
Santa Fe, NM 87504-0728

September, 1994

The cover illustration is derived from Robert Lindneux's *The Trail of Tears* and is used courtesy of Woolaroc Museum, Bartlesville, Oklahoma.

## Dear Trail of Tears Landowner or Manager:

Historic resources associated with the Trail of Tears abound on non-federal lands. As an owner or manager of a site, segment, or complementary interpretive facility along the Trail of Tears, you may want to consider becoming a partner with the National Park Service by *certifying* your site as an official part of the Trail of Tears National Historic Trail.

It's not the National Park Service's intention to directly solicit participation in the Trail of Tears National Historic Trail certification program — but you may find it intriguing and rewarding. The success of the Trail of Tears National Historic Trail *depends* upon voluntary grassroots initiative and participation by landowners, communities, and others along the Trail.

Before explaining the certification process, let's clarify the difference between the "Trail of Tears" and the "Trail of Tears *National Historic Trail*." The "Trail of Tears" refers to both the event and the several routes followed by

the Cherokee Indians during their forced removal from their ancestral lands to Indian Territory. It is also sometimes used to describe the events and routes followed by other American Indian tribes who were also forcibly removed from their lands.

Congress has designated an overland route and the water route followed by the Cherokee during their 1838-1839 removal as the alignment to be recognized as the Trail of Tears National Historic Trail. Along this alignment, resources on federal lands which can be documented to have a direct association with the event and the route (such as Trail segments in the Shawnee National Forest) become federally protected components of the Trail of Tears *National Historic Trail*. In addition, authentic Trail resources located on private or non-federal lands may be certified and subsequently incorporated into the Trail of Tears National Historic Trail.





All components of the Trail of Tears must meet national historic trail criteria before they can be considered for inclusion in the Trail of Tears National Historic Trail.

In this guide (and in other Trail of Tears National Historic Trail materials), you'll frequently come upon the terms "site," "segment," and "complementary interpretive facility." Here are a few definitions:

- ◆ A **site** is a specific location where Trail of Tears-related resources exist today (for example, a building or the remains of a building; a camp site, grave site, or the location of a significant event; or a route segment less than ½ mile in length).
- ◆ A **segment** is a route that the Trail of Tears followed that is at least ½ mile long. (For example, if we know that the Trail of Tears followed a certain ridge, then the ridge-top would be considered a segment of the Trail, even if evidence of the original Trail no longer remains.) Where the

original route cannot be defined, it is possible to establish commemorative trails for appropriate use such as hiking or bicycling.

- ◆ A **complementary interpretive facility** is a museum, visitor center, or other educational facility along the general Trail corridor where the story of the Trail of Tears is interpreted (for example, a historical society museum in a county that the Trail passes through that provides exhibits or otherwise tells the story of the Trail of Tears). These facilities fall into two categories: 1) Cherokee, state, or federally (non-National Park Service) constructed, operated, or substantially supported interpretive and educational centers; and 2) city, county, or regional nonprofit interpretive and educational centers.

Please remember that just because a resource has not been certified does not mean that it is not a significant historic property associated with the Trail of Tears. Now, let's talk about **certification**.

## What *is* certification ?

When you certify your Trail of Tears site, segment, or complementary

interpretive facility, it becomes an official part of the National Historic Trail.

Certification is a type of cooperative agreement with the National Park Service, but it is not a legal contract. ***Rather, it is a good-faith expression of mutual expectations and interests.***

## **What are the criteria for certification ?**

To be certified as part of the Trail of Tears National Historic Trail, your site or segment should meet the following general criteria. (Most Trail of Tears sites and segments already meet many of them.)

- ◆ It should have at least one significant and direct tie to the Trail of Tears, be along the Trail of Tears National Historic Trail routes, and be suitable and available for reasonable public access. There should be some historic resource value and/or an opportunity for significant interpretation of historic Trail of Tears resources.
- ◆ Owner/managers need to agree to manage it to protect its resources, and to provide for suitable public use.
- ◆ Certification and subsequent actions on the site, segment, or complementary interpretive facility must comply with

Certification is completely voluntary, and can be terminated by either party, if necessary. You see, certification is, first and foremost, a ***partnership.***

applicable state, local, and federal laws (for example, environmental laws, public health and safety requirements, equal employment opportunity laws, federal handicapped accessibility laws), which we'll discuss later under the section on compliance.

Although the criteria listed above will be met by all sites that are certified as Trail of Tears National Historic Trail sites, some aspects of each certification agreement will be tailored to the specific nature and management needs of your Trail site, and your needs as the owner/manager. For example, some sites may need intensive management and maintenance to protect the properties. Others can be visited and appreciated just as they are, with virtually nothing being done. If you own or manage a site on a remote, undeveloped part of your property, you may allow relatively unrestricted access. If your site is near your house, you may want to let people visit the site only at certain times, or under certain conditions.



The certification of complementary interpretive facilities is based on the ability to meet a number of criteria. These include providing accurate, effectively presented interpretive information to visitors; a staff with knowledge of Trail history and interpretive techniques; a clean, well-maintained, and orderly facility that meets

applicable local, state, and federal regulations for health and safety, equal employment opportunity, and environmental compliance; and accessibility for the disabled. Facilities that are associated with actual Trail resources should complement those resources. Trail artifacts should be properly displayed, handled, and protected.

### Can Trail of Tears memorials be certified ?

The emphasis of the Trail of Tears National Historic Trail is on preserving the Trail and telling the story of this tragic part of our nation's history. Certification is designed for Trail sites and segments and interpretive facilities, some of which may contain memorials. A number of communities along the Trail have built memorials to commemorate the Trail of Tears, and several new memorials have been proposed. We do not certify memorials, as such, but rather consider them part of the overall site or facility.

The Cherokee people and the Trail of Tears National Historic Trail Advisory Council have expressed the concern that any new memorials be carefully considered. As with all Trail

interpretation/education, we will be consulting with the Cherokee Nation and the Eastern Band of Cherokee regarding the appropriateness of proposed memorials and interpretation at Trail sites. We will not certify a site unless its memorials, interpretation, and other site developments are in good taste, of highest quality, and meet the goals and standards of the Trail of Tears National Historic Trail.

Preserving the actual Trail and its resources and providing quality interpretation of the Trail story can be exceptionally effective in gaining public understanding and appreciation of the Trail of Tears. It may well be the best way to commemorate those who endured the Trail of Tears, and their descendants.





## What are the benefits of certification ?

As the owner/manager of an officially certified Trail of Tears National Historic Trail property, you'll be able to take advantage of many opportunities that you wouldn't have access to otherwise:

- ◆ **Protection/interpretation:** National Park Service certification standards provide for a high level of protection and interpretation for certified Trail of Tears National Historic Trail properties. Our mission as the Nation's leading conservation agency emphasizes protection of cultural and natural resources — and, as your partners, we and the Trail of Tears Association can help advise you about good protection. We also emphasize appropriate visitor use, and an important part of visitor use is what we call "interpretation"—which is *how* (and *where* and *why*) we communicate the "story" behind a particular place, person, or event. There are many ways of interpreting your Trail resources, and we will be happy to offer advice in this area.
- ◆ **Recognition:** Certification can bring a strong and favorable

public image through recognition of your generous efforts to preserve resources and provide for appropriate public use. Many people are interested in the history of the Trail of Tears. Certification will let people know that your property is part of a *nationally significant* trail, and that protection, interpretation, and public use all meet the high standards of quality that the American people have come to expect of National Park Service areas.

Local communities can achieve recognition for supporting the Trail, too. Members of communities, especially school-children, can benefit from the civic pride that comes with recognition and increased knowledge of their local history resulting from certification. Certification can also support and help justify local efforts to obtain grants for historic preservation and other civic projects.

Certified Trail of Tears National Historic Trail properties are marked with full-color, official



Trail-marker signs provided by the National Park Service (with the distinctive logo shown on the cover of this certification guide). The logo immediately enables people to identify sites, segments or facilities as official components of the Trail of Tears National Historic Trail, as well as indicating that they're being managed to the highest standards under your stewardship. Future publications, exhibits, and other informational/interpretive tools will also carry this Trail symbol. Certified Trail properties will be included in Trail interpretive, educational, and informational programs, and other media projects being planned for national distribution.

- ◆ **Technical Assistance:** When your Trail of Tears site or segment is certified, the National Park Service can provide technical assistance in areas such as historic preservation, archeological protection, architecture, engineering, landscape architecture, planning, maintenance, trail-building, and interpretation. At the very least, we can review your plans, and provide expert comments and suggestions for improving them.

In some cases, we may be able to come to your site to provide expertise (for instance, an archeologist might do a survey of the area, or a historical architect might evaluate a building's rehabilitation needs). The extent to which the National Park Service can provide assistance will vary, depending upon the needs of the site, and personnel and funding limits. We also have contacts with others — experts from state and other federal agencies, volunteer experts from the private sector, and other landowners and managers — who are our partners on the Trail and have the knowledge to assist.

- ◆ **Other Benefits:** You may find other advantages involved in certification. For instance, if you become a volunteer through the National Park Service Volunteers-in-Parks (VIP) program, you may become eligible for tax deductions for some expenses in accordance with federal and state tax codes. (Note: Although we can tell you how to obtain information about the tax benefits of volunteering, we're not permitted or qualified to provide tax advice.) Through the use of the VIP program, the National Park Service may also



be able to provide tools, equipment, and supplies for Trail of Tears National Historic Trail projects at certified properties. In some cases, the National Park Service may also be able to provide limited financial assistance to qualifying groups and individuals. This might be cost-share grants for the development of cultural and natural resource management activities, visitor use

developments, and interpretation. It's also possible that the ability of a non-profit group to raise funds for historic preservation and visitor use projects can be greatly enhanced by the status a property will gain by becoming part of a national program. And the rehabilitation of qualifying historic buildings may provide tax incentives to owners under the Economic Recovery Tax Act of 1981.

### **Are there costs involved in certification ?**

You'll find that there aren't any direct costs involved in developing certification agreements. Projects resulting from action plans developed out of certification agreements will, of course, have costs attached. However, it's not the intention of the Trail of Tears National Historic Trail certification program that certifying partners be required to incur any personal costs (unless they wish to make a donation). Rather, the program encourages the use of volunteers — as

well as donations from individuals, groups, and corporations — in the implementation of plans for preservation and public use of sites or segments. Costs for these action-plan projects for organizations and agencies is often already a part of their planning and budget process. Because certification is a partnership, you won't be in it alone. We'll work to help you obtain the resources needed to protect your site and provide for quality visitor experiences.

### **What will my personal liability be if I certify ?**

If your Trail of Tears site, segment, or complementary interpretive facility is certified as a component of the Trail of

Tears National Historic Trail, it should be made available for appropriate public use. Where people can go, what they can do,

when they can visit the site, and other specifics will be spelled out in the certification agreement. You may be interested to learn that *virtually all states that the Trail of Tears runs through have laws protecting landowners who allow public use of their lands for recreational purposes*. We'll make information about these laws available to you during the certification process. If necessary, the National Park Service can enroll private landowners as volunteers (under the Volunteers-in-Parks program

mentioned earlier), which would cover actions taken by volunteers within the scope of the certification agreement under the Federal Tort Claims Act, and, if applicable, under Workmen's Compensation laws. Actions taken outside the scope of state laws and volunteer agreements would not be covered. We'll discuss the extent of this coverage with you during certification. (A note here: Sorry, but National Park Service staff can't give you legal advice.)

### Certification involves "compliance." What does this mean ?

Don't be put off by this formal-sounding term. When stripped of its formal trappings, compliance offers an opportunity for us all to ensure that natural and cultural resources of the Trail of Tears receive the best possible protection. Compliance is a very positive step for actions taken under certification agreements. It enables us to help you achieve the same high standards of resource stewardship for your property that we apply in traditional National Park Service units.

Here's an example of compliance in action: Let's say that we all agree that a paved trail for visitors is needed at your site. Before any work is done, the National Park Service will set a formal

process in motion that evaluates what effects the trail might have on natural and cultural resources in the area. Compliance people from the National Park Service, State Historic Preservation Office, and other agencies will look over the proposed trail plan and identify potential impacts (such as erosion, or damage to possible archeological sites). If needed, we will propose ways of eliminating impacts or reducing them to an acceptable level. This will all be backed up by good documentation.

As in any partnership, everyone involved will have a role in accomplishing compliance. Decisions as to how this will be done will be part of the certification process, and later, if needed, the site



planning process. Organizations and agencies will have more responsibilities than private landowners. When all is completed, everyone can feel confident that we have complied with the provisions of resources protection and other laws such as the National Environmental Policy Act, the National Historic Preservation Act, and the Architectural Barriers Act.

Please rest assured that private landowners won't be asked to comply with the laws mentioned previously in the course of regular day-to-day activities on their lands (mowing the grass, grazing cattle, growing crops, and so forth). Compliance will apply only within the scope of your certification agreement. But you will be asked to consult with the National Park Service regarding any activities you undertake that could adversely affect the certified resources of your property. This will give us the opportunity to comment and provide advice about how to meet your needs while also avoiding any changes in the values that made your Trail of Tears property eligible for certification in the

first place. (Here's an example: Let's say you want to build a new farm road near, but not on, your Trail of Tears property. We would want to consult with you to make sure that water runoff, dust from farm vehicles, and other possible impacts don't adversely affect the site or visitor enjoyment.) Too, in our certification agreement, and any other planning, we may wish to monitor your site for any potential damage from the activities taking place on and around it.

If you are already planning actions that might have an impact on your historic site or segment, *and* you think you are interested in pursuing certification in the future, it would be prudent to contact us *now*. An action that changes the historic resources or the surrounding landscape could inadvertently alter the resource and interpretive values that make the area eligible for certification. Such an action could also jeopardize other recognition such as placement on the National Register of Historic Places. We will happily consult with you early to ensure that your actions will not compromise eligibility for later certification.

### Who can apply for certification ?

Anyone who owns or manages a non-federal Trail site, segment, or interpretive facility that meets the criteria we've

mentioned can request certification — a private landowner, an organization, or state or local government.



If you request certification, you should have the authority to manage the site. (For instance, a non-profit Trail group can't request certification for a site owned by a private individual without that individual's permission.) Private landowners can choose to manage the

Trail property themselves, or they can delegate the authority to manage and protect it to a non-profit group. We can provide you with more information about a variety of ways you can accomplish this "delegation," depending on your personal considerations.

### **How do I apply for certification ?**

If you think you might be interested in entering into a certification agreement with the National Park Service, begin by contacting the National Park Service at the address listed at the end of this certification guide. We'll be happy to explain the process, and answer any questions you might have. During initial discussions, we may need to visit your site and talk to you in detail about your needs. Afterward, if your site appears to meet certification criteria, we'll send you a draft certification agreement that will become the basis for any further discussions. Negotiation is a friendly,

interesting, and normal part of the certification process.

If you decide to submit an application, sending along the following information and documentation related to your Trail property will be very helpful: maps, showing location and details; specifications (size, resources, and facilities); a description of your area's historical relationship to the Trail; area photographs or drawings; and any written plans, brochures, and the like. Submitting an application in no way obligates you to continue with certification.

### **How long is certification valid ?**

An initial certification agreement term extends from two to five years, depending upon individual property circumstances and what's required to maintain the terms of the agreement. Initially, a shorter

period will be set for those properties undergoing changes and development. This shorter period will accommodate any review and revision of the terms of the agreement that may be needed.

It's important to mention again that certification agreements are not legal contracts. As good-faith expressions of mutual expectations and interests, they're completely voluntary, and subject to termination by either party at any time. For instance, it's possible that the National Park Service could terminate a certification agreement if it believes that resources have been adversely impacted, or that there appears to be a clear disregard of the terms of the certification. In such cases, as partners, we would work together to identify and solve problems early on. Please rest assured that the National Park Service will be

understanding if some terms cannot be met, so long as a reasonable effort was made to meet them, or factors beyond anyone's control prevented action. We'll be asking for *your* patience and forbearance, too, if for some reason it turns out that we can't do all that we have proposed, or the process takes longer than we had all hoped. (If you should encounter a serious problem at some point, and consider canceling certification, we'd appreciate your giving us at least a couple of months notice, so we can work to eliminate the problem, and possibly keep your certification intact.)

### **Why is the National Park Service using certification agreements instead of acquiring these properties for a park ?**

Certification is unique to the National Trails System. The National Trails System Act (1968) provides an innovative mechanism to protect trail routes, properties, and the rights of individual landowners, without requiring large expenditures of money to acquire land. The National Park Service will emphasize this grassroots management of the Trail of Tears National Historic Trail, as Congress directed. If you decide to enter into a certification agreement, *you'll still retain all legal rights to your land and property.*

Acquisition of land or any interests in land for the Trail of Tears National Historic Trail by the National Park Service may only be on a willing-seller, willing-buyer basis. Such acquisition will only be considered for the most significant Trail properties when the owner and the National Park Service agree that this is the best method to protect these properties. In most cases, the National Park Service will help identify organizations that buy or accept donations of property for conservation purposes, such as land trusts.





Remember, the National Trails System will work best when grassroots ownership

and management of Trail resources is the primary emphasis.

### **Are there other ways to protect my site, segment, or complementary interpretive facility besides certification ?**

Private and public owners all over the Nation are using many different methods for protecting America's cultural and natural resource heritage. For instance, they're using "tools" like leasehold agreements, and donations or sales of land or interests (such as easements) in lands containing resources. And, as mentioned earlier, you, as owner/manager, can work out delegation arrangements with private non-profit groups — or with local, state, or federal government agencies — and can do so in ways that allow you continued use of your land. Many of these alternative options can provide long-term protection that will ensure that the properties are protected well into the future, and keep ownership and management at the grassroots level. If you're interested in

considering options other than — or in addition to — National Park Service certification, we'll be glad to discuss them with you and put you in touch with others knowledgeable in this area.

Many Trail of Tears properties are currently on the National Register of Historic Places, or are designated as National Historic Landmarks. If you'd like to find out if your property is eligible for these national-recognition programs, contact the National Park Service office listed on the next page, or your State Historic Preservation Office. And please remember: Using certification with other land preservation techniques can provide even better long-term protection and ensure the highest possible standards of stewardship.

### **How can I find out more ?**

If you think that you want to certify your Trail property, we'll be glad to talk to you about what's involved. If you're not sure, we may be able to put you in touch with others who have already certified to

find out how they feel about the process. And, as mentioned earlier, we can also give you information on other methods for providing long-term protection, such as leases, easements, and donations.



Contact the National Park Service office below if you'd like a copy of the Trail of Tears National Historic Trail Comprehensive Management and Use Plan — or if you wish to be placed on our National Park Service mailing list for periodic newsletters — or if you have any questions on certification, or about the Trail of Tears National Historic Trail in general.

Trail of Tears National Historic Trail  
National Park Service  
P.O. Box 728  
Santa Fe, NM 87504-0728  
505/ 988-6888

The Trail of Tears Association is the major Trail-wide partner in preservation of the Trail, educating the public about the Trail of Tears and Indian removal, and fostering certification of Trail of Tears sites, segments, and complementary interpretive facilities as components of the Trail of Tears National Historic Trail. We'd like to suggest that you contact them for information about supporting the Trail of Tears National Historic Trail and the Trail of Tears in general.

Trail of Tears Association  
P.O. Box 2069  
Cherokee, NC 28719  
803/ 297-1881





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